

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EON-NET, L.P.,

Plaintiff,

v.

FLAGSTAR, INC.,

Defendant.

Case No. C05-2129RSM

MINUTE ORDER SETTING TRIAL
DATE & RELATED DATES

TRIAL DATE

May 11, 2009

Statement of asserted claims and preliminary infringement
contentions due

February 27, 2008

Statement of preliminary invalidity contentions

April 2, 2008

Deadline for joining additional parties and amending pleadings

April 13, 2008

Reports from expert witnesses, if any, regarding Markman issues

July 25, 2008

Rebuttal expert reports, if any, regarding Markman issues

August 24, 2008

Joint claim chart due

September 5, 2008

Opening claim construction briefs due (24 page limit)

September 19, 2008

Responsive claim construction briefs due (24 page limit)

October 3, 2008

Markman hearing

at 9:00 a.m. on

October 23, 2008

Reports from expert witnesses under FRCP 26(a)(2) due

November 22, 2008

Rebuttal expert reports due

December 22, 2008

All motions related to discovery must be noted on the motion
calendar no later than the Friday before discovery closes
pursuant to CR7(d)(3) or CR37(a)(2)(B)

Discovery completed by

January 21, 2009

1	All dispositive motions must be filed by	February 10, 2009
2	and noted on the motion calendar no later than the	
3	fourth Friday thereafter (<u>see</u> CR 7(d))	
4	Settlement conference per CR 39.1(c)(2) held no later than	March 12, 2009
5	Mediation per CR 39.1(c)(3) held no later than	April 11, 2009
6	All motions <i>in limine</i> must be filed by	April 13, 2009
7	and noted on the motion calendar seven judicial days	
8	thereafter pursuant to CR7(d)(2)	
9	Agreed pretrial order due	April 29, 2009
10	Pretrial conference to be scheduled by the Court	
11	Trial briefs, proposed voir dire questions, proposed	May 6, 2009
12	jury instructions, and trial exhibits due	
13	Length of Trial: [4-7 days]	Jury [<u>Jury Trial (XXX)</u>]

14 These dates are set at the direction of the Court after reviewing the joint status report and
15 discovery plan submitted by the parties. All other dates are specified in the Local Civil Rules.
16 If any of the dates identified in this Order or the Local Civil Rules fall on a weekend or federal
17 holiday, the act or event shall be performed on the next business day. These are firm dates that
18 can be changed only by order of the Court, not by agreement of counsel or the parties. The
19 Court will alter these dates only upon good cause shown: failure to complete discovery within
20 the time allowed is not recognized as good cause.

21 If the Markman hearing or trial dates assigned to this matter create an irreconcilable
22 conflict, counsel must notify Lowell Williams or Laurie Cuaresma, at 206-370-8521 within 10
23 days of the date of this Order and must set forth the exact nature of the conflict. A failure to do
24 so will be deemed a waiver. Counsel must be prepared to begin trial on the date scheduled, but
25 it should be understood that the trial may have to await the completion of other cases.
26

ELECTRONIC FILING

Counsel are **STRONGLY ENCOURAGED** to electronically file all documents with the Court. Documents filed electronically are instantly filed and the Court has immediate access to the papers. Documents filed in paper form have to be labeled, scanned, and then docketed in the Clerk's Office. That can, and likely will, result in a delay of several days before the document is posted on the docket sheet.

TECHNICAL ADVISOR

The parties shall, within fourteen days of the date of this Order, confer and inform the Court whether the nature of the invention and the factual/technical issues that are likely to be in dispute justify the appointment of a technical advisor to assist the Court during the claim construction proceedings, and/or the trial of this matter. If the parties believe such an advisor would be helpful to the Court, they shall submit the resumes of three qualified individuals who are willing to serve as a technical advisor in this matter.

CLAIM CONSTRUCTION PROCEDURES

Prior to submission of the Joint Claim Chart, the parties shall exchange preliminary proposed constructions for each disputed claim term and provide a preliminary identification of any extrinsic evidence that supports a particular construction. If the extrinsic evidence is documentary, a copy shall be provided to the opposing party: if the evidence is testimonial, a brief description of the witness' proposed testimony must be produced. After reviewing the preliminary submissions, the parties shall meet to narrow the disputed issues and finalize the Joint Claim Chart. The Court expects the terms presented in the Joint Claim Chart to be truly in

1 dispute and further expects that the preliminary disclosures discussed above will help narrow the
2 terms in dispute.

3 The Joint Claim Chart shall be formatted as provided in the sample chart found at the end
4 of this Order. The Chart must include each party's proposed construction of disputed terms,
5 together with specific references to the relevant portions of the specification and prosecution
6 history on which the party relies and descriptions of any supporting extrinsic evidence. By the
7 time the Joint Claim Chart for each patent is filed, all allegations of infringement must be
8 revealed and the Court will not consider new allegations of infringement without the asserting
9 party showing good cause.
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12 COOPERATION

13 As required by CR 37(a), all discovery matters are to be resolved by agreement if
14 possible. Counsel are further directed to cooperate in preparing the Joint Claim Chart and final
15 pretrial order in the format required by CR 16.1, except as ordered below.
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17 EXHIBITS

18 The original and one copy of any exhibits to be used at the Markman hearing and/or trial
19 are to be delivered to chambers five days before the hearing or trial date. Each exhibit shall be
20 clearly marked. Exhibit tags are available in the Clerk's Office. The Court hereby alters the CR
21 16.1 procedure for numbering exhibits: plaintiff's exhibits shall be numbered consecutively
22 beginning with 1; defendant's exhibits shall be numbered consecutively beginning with 500.
23 Duplicate documents shall not be listed twice: once a party has identified an exhibit in the
24 pretrial order, any party may use it. Each set of exhibits shall be submitted in a three-ring binder
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1 with appropriately numbered tabs.

2 SETTLEMENT

3 Should this case settle, counsel shall notify Lowell Williams or Laurie Cuaresma as soon
4 as possible at 206-370-8521. Pursuant to GR 3(b), an attorney who fails to give the Deputy
5 Clerk prompt notice of settlement may be subject to such discipline as the Court deems
6 appropriate.
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8 DATED this 14th day of February, 2008.
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13 RICARDO S. MARTINEZ
14 UNITED STATES DISTRICT JUDGE
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